IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 6886 OF 2007

Govind Krishna Indore
Through Power of Attorney
Pandurang Govind Indore.... Petitioner

versus

Bhikaji Tukaram Bangar & ors..... Respondent.

Shri V.B.Tapkir for the petitioner.

CORAM; A.P. DESHPANDE, J.
DATED; 04TH OCTOBER, 2007

P.C.;

1. The Plaintiff has filed a suit for permanent injunction. TILR has carried out the measurement on 5-7-2004, which measurement is not acceptable to the Petitioner/plaintiff. Hence he approached TILR with a request for re-measurement. TILR directed the petitioner to deposit a sum of Rs. 3000/- so that re-measurement can be carried out. Instead of depositing the amount as directed by TILR, the petitioner moved an application before the trial court seeking appointment of TILR as a Commissioner to carry out the measurement. The trial court has observed in the impugned order rejecting the application for appointment of TILR as a Court Commissioner for re-measurement, that the petitioner has a remedy

available to him and should have infact deposited the amount as directed by TILR for re-measurement. But the plaintiff instead of depositing the amount for re-measuring the property, had chosen to approach the trial court by an application. The trial court has found that the petitioner cannot use the Court machinery for collecting the evidence and rejected the application. Even now, it shall be open for the petitioner to deposit the amount as demanded by TILR by its letter and have the property measured for establishing the fact of encroachment.

2. Perused the order. The same does not suffer from any illegality. Hence writ petition is dismissed.

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